

**MIDLAND CITY COUNCIL
MINUTES
August 26, 2014**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on August 26, 2014.

Council Members present: Council Member Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Mayor Pro Tem John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Council Members absent: Mayor Jerry F. Morales.

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, City Secretary Amy Turner, Municipal Court Judge Robin Smith, Development Services Director Charles Harrington, Finance Director Pam Simecka, Engineering Director Jose Ortiz, Director of Airports Marv Esterly, Assistant Airports Director Justin Ruff, Traffic Engineer Mike Pacelli, City Engineer Matt Carr, and Public Information Officer Sara Higgins.

Mayor Pro Tem Love called the meeting to order at 9:00 a.m.

1. Receive an update regarding the new Municipal Court Building and the costs for the building.

Presiding Municipal Court Judge Robin Smith briefly reviewed construction cost changes of the new municipal court building noting the changes were to include computers, security, sidewalks, a larger generator and fiber cabling. They expect the new building to be completed by the end of February, 2016.

Council Member Lacy suggested adding a penalty clause to the contract with fines if the building is not completed on target. If the old municipal courthouse is sold the money would go back into the general fund which would buy down the overall cost of the project.

2. Receive a presentation from Freese & Nichols regarding final draft of the Midessa Study including updates on spaceport designation.

Cameron Walker of Motor MPO reviewed the Midessa Study project noting they consulted with Freese and Nichols for input related to land use on the 191 corridor after the City announced it was seeking spaceport designation.

Eddie Haas of Freese and Nichols highlighted some of the elements of the plan and reviewed the process they took. He noted the plan is a conceptual framework of land uses for a transportation network and reviewed strategies and actions that may be considered as growth occurs in the area.

He reviewed the corridor management plan that would include backage roads with 500 feet of up front development. They suggested the City consider annexing 1800 feet on both sides of the 191 to allow for adequate right-of-way and make a transit-ready corridor.

Their four-step process engaged the community, defined external factors influencing development and revised their vision. The original concept was expanded to allow for a mixed use concept along the corridor and allowing for hotel opportunities near the airport. They changed the thoroughfare network to correlate with the new changes including a hazard impact area limiting development in the "x" of the spaceport designation area to commercial, manufacturing and recreational uses.

A final report will be presented to Motor MPO and other entities.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:37 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., August 26, 2014.

Council Members present: Council Member Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Mayor Pro Tem John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Council Members absent: Mayor Jerry F. Morales (arrived at 10:49 a.m.)

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, and Assistant City Manager Robert Patrick.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 19, 20, 22, 23, 24, 11, 18, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38.

Mayor Pro Tem Love called the meeting to order at 10:02 a.m.

OPENING ITEMS

1. Invocation - Reverend Pat Bryant, Travis Baptist Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Council Member Robnett and Police Chief Robinson recognized the Midland Police Explorers.

PUBLIC COMMENT

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting. (Please limit comments to three minutes or less.)

Glenda Southerland, 728 Beckley, reported she continues to have the same problem with trash in her dumpster. When asked what the City could do to help, she suggested adding a second dumpster to her location.

Council Member Hotchkiss reported she recently came into contact with the Police Department on two separate occasions and complimented them for showing respect and honor and carrying out their duties.

CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 5 - 24 excluding 11, 18, 21; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of August 5, 2014.
 - b. Regular meeting of August 12, 2014.
 - c. Special meeting of August 15, 2014.
6. Approved a resolution appropriating \$12,209,712.00 from the General Fund (001) unappropriated fund balance (5650); and appropriating \$150,000 from the Municipal Court Technology Fund (092) unappropriated fund balance (5650); and appropriating \$250,000 from the Municipal Court Security Fund (093) unappropriated fund balance (5660); to the Municipal Court Building Project (8919) for a total appropriation of \$12,609,712.00 for the construction of the new Municipal Court building for the General Services Department. (PURCHASING)

RESOLUTION NO. 2014 - 275

RESOLUTION AUTHORIZING THE APPROPRIATION OF \$12,209,712.00 FROM THE GENERAL FUND UNAPPROPRIATED FUND BALANCE; AND APPROPRIATING \$150,000.00 FROM THE MUNICIPAL COURT TECHNOLOGY FUND UNAPPROPRIATED FUND BALANCE; AND APPROPRIATING \$250,000.00 FROM THE MUNICIPAL COURT SECURITY FUND UNAPPROPRIATED FUND BALANCE; TO THE MUNICIPAL COURT BUILDING PROJECT FOR A TOTAL APPROPRIATION OF \$12,609,712.00 IN ORDER TO CONSTRUCT THE NEW MUNICIPAL COURT BUILDING; THE ESTIMATED TOTAL BUDGET FOR THIS PROJECT IS \$14,951,000.00, WHICH INCLUDES THE COMBINATION OF THIS APPROPRIATION ALONG WITH FUNDS ALREADY AVAILABLE IN THIS PROJECT

7. Approved a resolution approving plans and specifications and authorizing advertisement for bids for Tradewinds Boulevard Utility Improvements project for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2014 - 276

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE TRADEWINDS BOULEVARD UTILITY IMPROVEMENTS PROJECT; SAID PROJECT WILL PROVIDE FOR THE INSTALLATION OF VARIOUS WATER AND WASTEWATER UTILITIES SERVICING A LARGE AREA WEST OF LOOP 250 AND SOUTH OF THOMASON DRIVE, AND WILL ENABLE FUTURE EXTENSIONS OF UTILITY SERVICE TO LOCATIONS EAST AND WEST OF THIS AREA

8. Approved a resolution approving a contract with the sole source provider, Control Technologies, Inc., for Midland International Airport Heating Ventilation and Air Conditioning (HVAC) controls network upgrade for a cost of \$95,139.00 for the Airports Department. (PURCHASING)

RESOLUTION NO. 2014 - 277

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR HEATING, VENTILATION AND AIR CONDITIONING CONTROLS NETWORK UPGRADES AT THE MIDLAND INTERNATIONAL AIRPORT WITH CONTROL TECHNOLOGIES, INCORPORATED, OF LUBBOCK, TEXAS, AT A TOTAL COST OF \$95,139.00; AND THIS ITEM WAS NOT BID BUT PURCHASED AS A SOLE SOURCE

9. Approved a resolution approving the purchase of ten (10) Wavetronix Smartsensor Matrix systems for traffic signal maintenance from Twincrest Technologies through Houston-Galveston Area Council (H-GAC) contract PE05-13 for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2014 - 278

RESOLUTION APPROVING THE PURCHASE OF TEN (10) WAVETRONIX SMARTSENSOR MATRIX SYSTEMS FOR RADAR DETECTION PACKAGES FOR USE AT TRAFFIC SIGNALS AND TRAFFIC SIGNAL MAINTENANCE FROM TWINCREST TECHNOLOGIES, INCORPORATED, THROUGH THE HOUSTON-GALVESTON AREA COUNCIL AT A TOTAL COST OF \$184,380.00; THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS; THE WAVETRONIX SMARTSENSOR MATRIX SYSTEMS WILL HELP IMPROVE THE FLOW OF TRAFFIC CITYWIDE; AND ALLOCATING FUNDS

10. Approved a resolution approving the execution of a professional services agreement with Transmap Corporation for Phase II of the Pavement Condition Index Survey project for a cost of \$156,290.20 for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2014 - 279

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH TRANSMAP CORPORATION FOR PROFESSIONAL SERVICES TO ASSIST THE ENGINEERING SERVICES DEPARTMENT WITH THE COLLECTION OF INFORMATION PERTAINING TO TRAFFIC ASSETS, UTILITY ASSETS, AND LINEAR ASSETS WITHIN THE CITY OF MIDLAND, TEXAS (PHASE II OF THE PAVEMENT CONDITION INDEXING SURVEY); AND AUTHORIZING PAYMENT THEREFOR IN AN AMOUNT NOT TO EXCEED \$156,290.20

12. Approved a resolution authorizing the appropriation of \$150,000.00 from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the project described as Commercial Space Launch Site Application. (AIRPORTS)

RESOLUTION NO. 2014 - 281

RESOLUTION AUTHORIZING THE APPROPRIATION OF AN ADDITIONAL \$150,000.00 FROM THE AIRPORT OPERATING FUND TO THE PROJECT DESCRIBED AS COMMERCIAL SPACE LAUNCH SITE APPLICATION AT THE MIDLAND INTERNATIONAL AIRPORT; AND THESE FUNDS ARE IN ADDITION TO THE \$628,502.00 APPROPRIATED IN AUGUST OF 2012

13. Approved a resolution authorizing the execution of a contract with the Midland Tennis Center, Incorporated, a Texas Nonprofit Corporation, to promote tourism and the convention and hotel industry in the City of Midland; and appropriating funds from the Hotel/Motel Fund; and The Midland Tennis Center, Incorporated, will also promote tennis activities and tennis tournaments at The Bush Tennis Center in Midland. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2014 - 282

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE MIDLAND TENNIS CENTER, INCORPORATED, A TEXAS NONPROFIT CORPORATION, TO PROMOTE TOURISM AND THE CONVENTION AND HOTEL INDUSTRY IN THE CITY OF MIDLAND; AND APPROPRIATING FUNDS FROM THE HOTEL/MOTEL FUND; AND THE MIDLAND TENNIS CENTER, INCORPORATED, WILL ALSO PROMOTE TENNIS ACTIVITIES AND TENNIS TOURNAMENTS AT THE BUSH TENNIS CENTER IN MIDLAND

14. Approved a resolution approving the Chevron Enterprise Zone. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2014 - 283

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, NOMINATING CHEVRON U.S.A. INC. TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM, THROUGH THE ECONOMIC DEVELOPMENT BANK AS AN ENTERPRISE PROJECT PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE; PROVIDING AN EFFECTIVE DATE; AND DESIGNATING A LIAISON FOR THE COMMUNICATION WITH INTERESTED PARTIES

15. Approved a resolution approving an amendment to the Economic Development Agreement between the Midland Development Corporation and Orbital Outfitters, Ltd., as authorized by Chapter 501 of the Texas Local Government Code. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2014 - 284

RESOLUTION APPROVING AN AMENDMENT TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND ORBITAL OUTFITTERS, LTD., AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

16. Approved a resolution approving an Affiliate Partnership Intermediary Memorandum of Understanding between the Midland Development Corporation and the Center for Innovation at Arlington, LLC, to advertise or publicize the City of Midland for the purpose of developing new and expanded business enterprises; said Memorandum of Understanding being authorized by Chapter 504 of the Texas Local Government Code. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2014 - 285

RESOLUTION APPROVING AN AFFILIATE PARTNERSHIP INTERMEDIARY MEMORANDUM OF UNDERSTANDING BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE CENTER FOR INNOVATION AT ARLINGTON, LLC TO ADVERTISE OR PUBLICIZE THE CITY OF MIDLAND FOR THE PURPOSE OF DEVELOPING NEW AND EXPANDED BUSINESS ENTERPRISES; SAID MEMORANDUM OF UNDERSTANDING BEING AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE

17. Approved a resolution authorizing the execution of a Professional Services Agreement between the City of Midland, Texas, and Parkhill, Smith and Cooper, in the amount of \$47,121.00, to prepare the schematic and construction plans, specifications, and estimates, oversee the bidding process, and provide construction oversight for the development of Greathouse Park; and appropriating said funds to project number 9108. (COMMUNITY SERVICES)

RESOLUTION NO. 2014 - 286

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS, AND PARKHILL, SMITH AND COOPER, INCORPORATED, OF MIDLAND, TEXAS IN THE AMOUNT OF \$47,121.00 IN ORDER TO PREPARE THE SCHEMATIC AND CONSTRUCTION PLANS, SPECIFICATIONS, ESTIMATES, OVERSEE THE BIDDING PROCESS, AND PROVIDE CONSTRUCTION OVERSIGHT FOR THE DEVELOPMENT OF GREATHOUSE PARK; AND APPROPRIATING FUNDS

19. Approved a resolution to amend Street Paving & Ancillary Uses (8912) by authorizing the additional allocation of funds in the amount of \$150,000 for the purpose of aggregating miscellaneous scopes of work. (ENGINEERING SERVICES)

RESOLUTION NO. 2014 - 288

RESOLUTION APPROPRIATING ADDITIONAL FUNDS FROM THE STREET / SIDEWALK IMPROVEMENT FUND (095) UNAPPROPRIATED FUND BALANCE (5650) TO THE STREET PAVING AND ANCILLARY USES PROJECT (8912) IN THE AMOUNT OF \$150,000.00

20. Approved a motion on a request by Schumann Engineering Co. Inc. for the Crownridge Addition to approve items requested for deferral in the amount of \$394,247.00, and to discount the associated construction costs by an amount equal to the full cost of construction. The subject property is generally located at the northeast corner of North County Road 1150 (a.k.a., Elkins Road) and East County Road 2300 in the City of Midland, Martin County, Texas. (ENGINEERING SERVICES)
22. Approved a resolution appropriating donated funds resulting from the proceeds of the 2014 Bustin' For Badges to the Midland Police Department. (POLICE)

RESOLUTION NO. 2014 - 290

RESOLUTION ACCEPTING A CASH DONATION OF \$32,000.00 FROM THE "BUSTIN' FOR BADGES" FUND-RAISING PROJECT SPONSORED BY PIONEER NATURAL RESOURCES; THE DONATED FUNDS WILL BE USED TO PURCHASE EQUIPMENT, TECHNOLOGY, AND TRAINING ESSENTIAL TO THE DELIVERY OF LAW ENFORCEMENT SERVICES; AND APPROPRIATING SAID FUNDS

23. Approved a resolution accepting and appropriating grant funding awarded through the 2014 Justice Assistance Grant Program. (POLICE)

RESOLUTION NO. 2014 - 291

RESOLUTION AUTHORIZING THE CITY OF MIDLAND IN CONJUNCTION WITH MIDLAND COUNTY TO ACCEPT THE FISCAL YEAR 2014 JUSTICE ASSISTANCE GRANT FUNDS TOTALING \$31,422.00; THE CITY OF MIDLAND WILL RECEIVE \$18,853.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$12,569.00 (40%) OF THE GRANT FUNDS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING FUNDS

24. Approved a resolution accepting grant funding awarded by TXDOT to the Midland Police Department to conduct a FY2015 Comprehensive STEP Enforcement Project. (POLICE)

RESOLUTION NO. 2014 - 292

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$21,000.00 FROM THE TEXAS DEPARTMENT OF TRANSPORTATION IN ORDER TO CONDUCT A FISCAL YEAR 2014-2015 COMPREHENSIVE SPECIAL TRAFFIC ENFORCEMENT PROGRAM FOR INTERSECTION TRAFFIC CONTROL ENFORCEMENT, SPEED ENFORCEMENT, AND DRIVING WHILE INTOXICATED ENFORCEMENT; SAID GRANT AWARD REQUIRES A CITY CASH MATCH IN THE AMOUNT OF \$4,200.00; PROVIDING THAT THE GRANT FUNDS SHALL BE USED TO PAY OVERTIME TO POLICE OFFICERS WORKING ON SAID PROGRAM; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENT

The following items were pulled from Consent Agenda and considered individually.

11. Consider a resolution authorizing the City Manager to negotiate a professional services agreement with HDR, Inc. for oversight of the wastewater plant upgrades for secondary treatment for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2014 - 280

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH HDR, INC. FOR OVERSIGHT OF THE WASTEWATER CONTROL PLANT UPGRADES FOR SECONDARY TREATMENT; HDR, INCORPORATED, WILL BE THE OWNER'S REPRESENTATIVE IN OVERSEEING THE UPGRADES TO THE PLANT AND HELPING TO NEGOTIATE THE CONTRACT FOR THE SALE OF RECLAIMED WASTEWATER FROM THE PLANT; THE CONTRACT WITH HDR, INCORPORATED, WILL NOT COME BACK TO THE COUNCIL FOR FINAL APPROVAL; AND THE SOURCE OF PAYMENT IS TO BE DETERMINED

Council Member Sparks pulled this item because this item has not yet been negotiated and without the cost of the scope he felt it should come back to Council prior to execution.

Council Member Dufford reported he hated to slow down the process and suggested Council Member Sparks be included in the negotiation process with the City Manager. Council Member Robnett also wished to be included in the negotiations.

Council Member Dufford moved to adopt Resolution No. 2014 – 280 with the amendment to include Council Member Sparks and Council Member Robnett on the negotiating team with the City Manager; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

18. Consider a resolution approving the transfer of the Oil and Gas Well Permits and Road Repair Agreement issued under City Ordinance 8769 to Bluestem Energy Holdings, LLC (Current Operator). The following permits Evans B 2, Evans C 1, Evans D 1, Evans E 1, Evans F 1, Evans G 1, Evans H 1, Evans I 1, Evans J 1, Evans N 1, Evans P 1, Evans K 1, Evans L 1 and applicant well D Evans A 2 and applicant well D Evans O 2 will be transferred to the Diamondback E&P, LLC. Evans permitted wells are located in Section 8, Block X, H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of Mockingbird Lane, east of Midland Drive.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2014 - 287

RESOLUTION APPROVING BLUESTEM ENERGY HOLDINGS, LLC'S ("OPERATOR") TRANSFER OF CERTAIN OIL AND GAS WELL PERMITS TO DIAMONDBACK E&P LLC ("TRANSFeree"); AND APPROVING OPERATOR'S TRANSFER OF THE ROAD REPAIR AGREEMENT REGARDING SAID OIL AND GAS WELL PERMITS TO TRANSFeree; THE OIL AND GAS WELLS ARE EVANS B #2, EVANS C #1, EVANS D #1, EVANS E #1, EVANS F #1, EVANS G #1, EVANS H #1, EVANS I #1, EVANS J #1, EVANS K #1, EVANS L #1, EVANS N #1, EVANS P #1, D EVANS A #2 (APPLICATION PENDING), AND D EVANS O #2 (APPLICATION PENDING); SAID OIL AND GAS WELLS ARE LOCATED IN SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF MOCKINGBIRD LANE, EAST OF MIDLAND DRIVE)

Council Member Dufford moved to adopt Resolution No. 2014 - 287 with the amendment that all transfers shall occur prior to September 30 2014 and proof of said transfer shall be provided to Oil & Gas Coordinator, Ron Jenkins; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

21. Consider a resolution accepting a donation of \$10,000 from the Westwood Trust - Yarborough Foundation. (POLICE)

RESOLUTION NO. 2014 - 289

RESOLUTION ACCEPTING A DONATION OF \$10,000.00 FROM THE WESTWOOD TRUST - YARBOROUGH FOUNDATION; THE DONATED FUNDS WILL BE DEPOSITED IN THE INVEST-IN-A-VEST PROJECT TO PURCHASE BULLET PROOF VESTS FOR POLICE OFFICERS; AND APPROPRIATING SAID FUNDS

Council Member Hotchkiss pulled this item to recognize that there are a total of four items on today's agenda where the Police Department is receiving over \$81,000 in grant funds and thanked each of the entities providing funds.

Police Chief Price Robinson reported they try to seek grants that benefit the City noting they do not budget for bullet proof vests which cost about \$700. Each vest, per the manufacturer, is good for five years.

Council Member Hotchkiss moved to adopt Resolution No. 2014 - 289; seconded by

Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

SECOND READINGS

25. Consider an ordinance on second reading on a request by AJ Construction / Glenda Kelly for a zone change from PD, Planned District for Shopping Center to an Amended Planned District on Lot 33B, Block 3, Briarwood Addition, Section 16, City and County of Midland, Texas. (Generally located 250 feet west of N. Midland Drive and 300 feet north of Briarwood Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9305

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 33B, BLOCK 3, BRIARWOOD ADDITION, SECTION 16, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED 250 FEET WEST OF NORTH MIDLAND DRIVE AND 300 FEET NORTH OF BRIARWOOD AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read caption of Ordinance No. 9305.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9305 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

26. Consider and ordinance on second reading on a City initiated request to amend Title XI, Section 2, Subsection 5, Paragraph C of the City Code as to not require the paving of alleys for access to vehicle garages, carports or parking areas or business loading areas, for lots final platted before July 1, 1994. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9307

AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", CHAPTER 2, "PLATS AND SUBDIVISIONS", SECTION 5, "REQUIREMENTS FOR PUBLIC IMPROVEMENTS, RESERVATION AND DESIGN", SUBSECTION (C), "STREETS AND ALLEYS", PARAGRAPH 3, "DESIGN AND IMPROVEMENT STANDARDS", SUBPARAGRAPH (S), "ALLEYS", SUBPART 6, OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO PROHIBIT ANY RESIDENTIAL LOT FINAL PLATTED AFTER JUNE 30, 1994 OR ANY COMMERCIAL LOT TO HAVE ACCESS FROM AN UNPAVED ALLEY THAT DOES NOT CONFORM TO CITY OF MIDLAND STANDARD SPECIFICATIONS TO A VEHICLE GARAGE, CARPORT, OR PARKING AREA OR BUSINESS LOADING AREA; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2000.00); AND ORDERING PUBLICATION.

Deputy City Secretary SueAnn Reyes read caption of Ordinance No. 9307.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9307 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

27. Consider an ordinance on second reading on a request by Stephen Cole for a Special Exception to the Zoning Code concerning the side yard setback requirements for an access structure on Lots 6 and 7, Block 7, University Park, City and County of Midland, Texas. (Generally located northeast of the intersection of "N" Street and Harvard Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9308

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 6 AND 7, BLOCK 7, UNIVERSITY PARK, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF "N" STREET AND HARVARD AVENUE), BY PERMITTING AN ENCROACHMENT INTO THE REQUIRED SIDE YARD SETBACK FOR CONSTRUCTION OF ACCESSORY STRUCTURES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read caption of Ordinance No. 9308.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9308 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

28. Consider an ordinance on second reading amending the current ordinance updating the City of Midland's Drought Contingency Plan. (UTILITIES)

ORDINANCE NO. 9310

AN ORDINANCE OF THE CITY OF MIDLAND, TEXAS, ESTABLISHING AND ADOPTING A DROUGHT CONTINGENCY PLAN FOR THE CITY OF MIDLAND, TEXAS, IN ORDER TO CONSERVE THE AVAILABLE WATER SUPPLY AND PROTECT THE INTEGRITY OF WATER SUPPLY FACILITIES; AND TO PROTECT AND PRESERVE PUBLIC HEALTH, WELFARE, AND SAFETY AND MINIMIZE THE ADVERSE IMPACT OF WATER SUPPLY SHORTAGES OR OTHER WATER SUPPLY EMERGENCY CONDITIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND NEGATING A MENTAL STATE; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read caption of Ordinance No. 9310.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9310 in accordance with the Charter of the City of Midland; seconded by Council

Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

PUBLIC HEARINGS

29. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by Debbie's, Inc. for a zone change from PD, Planned District for a Shopping Center to LR-2, Local Retail District, on Lot 2A, Block 52, Belmont Addition, Section 12, City and County of Midland, Texas. (Generally located southeast of the intersection of Belmont Street and Longview Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9313

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2A, BLOCK 52, BELMONT ADDITION, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF BELMONT STREET AND SUMMIT AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Development Services Director Chuck Harrington gave a brief overview noting this item will allow for the development of a shopping center to the north of Wal-Mart. It meets the comprehensive plan. No letters of objection have been received and staff recommends approval.

Mayor Pro Tem Love opened the public hearing at 10:34 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary SueAnn Reyes read caption of Ordinance No. 9313.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9313 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

30. At approximately 10:33 A.M. hold a public hearing and consider an ordinance on appeal on a request by JEJZ, LLC for a zone change from 2F, Two-Family Dwelling District and C3, Commercial District to PD, Planned District for a Housing Development, on a 49.85-acre tract of the south portion of Block 83, the west portion of Block 84, the north half of Block 85 and 86, plus a previously vacated 5.192-acre of Benton Avenue and Poplar Lane right-of-way, east Midland Addition, City and County of Midland, Texas. (Generally located on the west side of North Fairgrounds Road, approximately 650 feet north of East Cuthbert Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9314

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 49.85-ACRE TRACT OF LAND OUT OF THE SOUTH PORTION OF

BLOCK 83, THE WEST PORTION OF BLOCK 84, THE NORTH HALF OF BLOCKS 85 AND 86, AND INCLUDING A VACATED 5.192-ACRE PORTION OF BENTON AVENUE RIGHT-OF-WAY AND POPLAR LANE RIGHT-OF-WAY, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 2F, TWO-FAMILY DWELLING DISTRICT, IN PART, AND C-3, COMMERCIAL DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH FAIRGROUNDS ROAD, APPROXIMATELY 650 FEET NORTH OF EAST CUTHBERT AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Development Services Director Chuck Harrington gave a brief overview of the item noting this request was on appeal from the Planning & Zoning Commission. Staff looked at the request over a period of time and significant changes have been proposed. It will now be a mixed use development starting with multi-family duplexes and working back to single family homes. There will be 24 units per acre with a total of 58 duplexes (116 multifamily units) and 87 single family houses. Planning & Zoning denied the item on a 3-3 vote.

Mayor Pro Tem Love commended the developer for bringing forward a much better project than what was shown previously.

Council Member Hotchkiss noted she was previously on Planning & Zoning when this item first came through several years ago and felt this was a much better use.

Mr. Harrington reported there were two objectors at the Planning & Zoning Commission from the pipe yard expressing concern about the impact to their development. Since that the time the applicant has offered alternatives to buffer their project from the pipe yard.

Mayor Pro Tem Love opened the public hearing at 10:40 a.m.

Andrew Mellen, 1909 W. Wall, with Maverick Engineering, reported he has received no objections from residences. They have worked with the City to make sure traffic would go through. There will be a buffer of a roadway and an eight foot tall wooden fence between the development and the pipe yard. He spoke with the people at the pipe yard and they have no objection to the residences and their differences have been worked out. The City transportation division likes the idea that the road will go through because it gives people located to the west access to the park. He confirmed that everything on the property has been vacated except for the sewer easement which they have worked into their development.

There being no one else wishing to speak, the public hearing was closed at 10:43 a.m.

Deputy City Secretary SueAnn Reyes read caption of Ordinance No. 9314.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9314 in accordance with the Charter of the City of Midland; seconded by Council

Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

31. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by State Street Housing for a zone change from AE, Agriculture Estate District to MF-1, Multiple-Family Dwelling District, on an 18.584-acre tract of land out of Section 14, Block 39, T-1-S, T&P RR Company Survey, City and County of Midland, Texas. (Generally located on the west side of Lamesa Drive, approximately 1,000 feet north of Wadley Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9315

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING AN 18.584-ACRE TRACT OF LAND OUT OF SECTION 14, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF LAMESA DRIVE, APPROXIMATELY 1,000 FEET NORTH OF WADLEY AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request to rezone property from AE to multi-family. This is a unique piece of property with Midland Draw bordering the property and a transmission easement going across the property. A portion will be developed multifamily that will eventually be townhomes. The applicant has done a great job of accommodating the utility lines. One letter of objection came in from homes to the north but noted the project will be buffered from that location. They will be building ten buildings with 248 units and maintain 16 units per acre. Staff has reviewed and recommends approval. Planning & Zoning has also recommended approval.

Mayor Pro Tem Love opened the public hearing at 10:48 a.m.

Mayor Morales arrived at 10:49 a.m.

Andrew Mellon, Maverick Engineering, 1909 W. Wall, reported the townhomes are single story and that the setback is 200 feet from the fence line to the building. They are donating land back to the City for the widening of the channels and will be maintaining 16 units per acre density.

There being no one else wishing to speak, the public hearing was closed at 10:50 a.m.

Deputy City Secretary SueAnn Reyes read caption of Ordinance No. 9315.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9315 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

32. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a City initiated request for a street name change of Liberty Court to Freedom Court adjacent to Lots 1 through 16, Block 1, Floyd Acres, City and County of Midland, Texas. (Generally located on the west side of Beal Parkway, approximately 240 feet south of Logan Court.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9316

AN ORDINANCE CHANGING THE NAME OF LIBERTY COURT TO "FREEDOM COURT" ADJACENT TO LOTS 1-16, BLOCK 1, FLOYD ACRES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF BEAL PARKWAY, APPROXIMATELY 240 FEET SOUTH OF LOGAN COURT); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND DIRECTING THE CITY SECRETARY TO SEND THE MIDLAND EMERGENCY COMMUNICATIONS DISTRICT A CERTIFIED COPY OF THIS ORDINANCE

Development Services Director Chuck Harrington gave a brief overview of the item noting there are currently two Liberty Courts in Midland. Staff is proposing to change the name of the Liberty Court off of Beal to Freedom Court. This property was chosen because it is raw land.

Mayor Morales opened the public hearing at 10:53 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary SueAnn Reyes read caption of Ordinance No. 9316.

Council Member Hotchkiss moved approval of the first of two readings of Ordinance No. 9316 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

Mayor Morales noted he was late because the Governor is in town for the groundbreaking of Occidental Petroleum. Midland is blessed to have a major oil company making Midland home.

33. At approximately 10:42 A.M. hold a public hearing and consider a resolution on a request by Juan C. Mendoza for a Temporary Land Use Permit for a festival on Lots 7 through 9, Block 191, Southern Addition, City and County of Midland, Texas. (Generally located northeast of the intersection of South Terrell Street and East Dakota Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2014 - 293

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A FESTIVAL ON LOTS 7-9, BLOCK 191, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH TERRELL STREET AND EAST DAKOTA AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request for a Temporary Land Use Permit for a festival at a church. The

issue of music volume has been addressed and adequate security and ample restrooms will be provided. Staff recommends approval.

Mayor Morales opened the public hearing at 10:55 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Dufford moved to adopt Resolution No. 2014 - 293; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

34. Consider a resolution authorizing the acceptance of a 16.386-acre public water and sewer line easement from Cumberland & Western Resources LLC along the Tradewinds Boulevard corridor south of Thomason Drive, for the purpose of constructing public water and wastewater utility improvements to serve the region west of Loop 250 West; and ordering recordation by the City Secretary. (ENGINEERING SERVICES)

RESOLUTION NO. 2014 - 294

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 16.386-ACRE WATER AND SEWER LINE EASEMENT, BEING 10.406 ACRES LOCATED IN SECTION 48, BLOCK 40, T-1-S, T & P RR COMPANY SURVEY, MIDLAND COUNTY, TEXAS, AND 5.980 ACRES LOCATED IN SECTION 1, BLOCK 40, T-2-S, T & P RR COMPANY SURVEY, MIDLAND COUNTY, TEXAS, GRANTED BY CUMBERLAND & WESTERN RESOURCES, LLC; SAID EASEMENT CONTAINING A REVERSIONARY CLAUSE REQUIRING THE CITY TO (A) ADVERTISE FOR COMPETITIVE BIDS TO CONSTRUCT A WATER LINE AND SEWER LINE PRIOR TO OCTOBER 31, 2014, (B) AWARD A CONTRACT TO CONSTRUCT SAID WATER LINE AND SEWER LINE PRIOR TO FEBRUARY 28, 2015, AND (C) PROVIDE WRITTEN NOTICE TO THE SUCCESSFUL BIDDER TO PROCEED WITH CONSTRUCTION PRIOR TO MARCH 31, 2015; SAID EASEMENT CONTAINING A REVERSIONARY CLAUSE REQUIRING THE CITY TO REPLACE A REMOVED WATER LINE AND SEWER LINE WITHIN 366 DAYS OF REMOVAL; AND ORDERING RECORDATION BY THE CITY SECRETARY

Engineering Services Director Jose Ortiz gave a brief overview of the item noting there is an existing easement for a water line. The current easement is only 20 feet wide. They have negotiated with the landowners instead of having two overlapping easements they will set up a new easement and come back with the boundary of the new easement in the future. This is to accept the new easement from the land owners.

Council Member Dufford moved to adopt Resolution No. 2014 - 294; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks.

- a. Consider a resolution authorizing City staff to accept a release of an existing waterline utility easement from Cumberland & Western Resources LLC along the Tradewinds Boulevard corridor south of Thomason Drive for the purpose of accepting a new public water and wastewater easement to construct public utility improvements to serve the region west of South Loop 250 West.

RESOLUTION NO. 2014 - 295

RESOLUTION RELEASING A WATER PIPELINE EASEMENT AND RIGHT-OF-WAY GRANTED BY CUMBERLAND & WESTERN RESOURCES, LLC; AUTHORIZING THE EXECUTION OF SAID RELEASE OF WATER PIPELINE EASEMENT AND RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY

Council Member Dufford moved to adopt Resolution No. 2014 - 295; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks.

35. Consider a resolution authorizing the acceptance of a 4.487-acre public water and sewer line easement from SBC LP along the Tradewinds Boulevard corridor south of Thomason Drive, for the purpose of constructing public water and wastewater utility improvements to serve the region west of Loop 250 West; and ordering recordation by the City Secretary. (ENGINEERING SERVICES)

RESOLUTION NO. 2014 - 296

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 4.487-ACRE WATER AND SEWER LINE EASEMENT LOCATED IN THE NORTHEAST QUARTER OF SECTION 48, BLOCK 40, T-1-S, T & P RR COMPANY SURVEY, MIDLAND COUNTY, TEXAS, GRANTED BY SBC, LP; SAID EASEMENT CONTAINING A REVERSIONARY CLAUSE REQUIRING THE CITY TO (A) ADVERTISE FOR COMPETITIVE BIDS TO CONSTRUCT A WATER LINE AND SEWER LINE PRIOR TO OCTOBER 31, 2014, (B) AWARD A CONTRACT TO CONSTRUCT SAID WATER LINE AND SEWER LINE PRIOR TO FEBRUARY 28, 2015, AND (C) PROVIDE WRITTEN NOTICE TO THE SUCCESSFUL BIDDER TO PROCEED WITH CONSTRUCTION PRIOR TO MARCH 31, 2015; SAID EASEMENT CONTAINING A REVERSIONARY CLAUSE REQUIRING THE CITY TO REPLACE A REMOVED WATER LINE AND SEWER LINE WITHIN 366 DAYS OF REMOVAL; AND ORDERING RECORDATION BY THE CITY SECRETARY

Engineering Director Jose Ortiz reported this is the same as the previous item with a different land owner.

Council Member Lacy moved to adopt Resolution No. 2014 - 296; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

- a. Consider a resolution authorizing City staff to accept a release of an existing waterline utility easement from SBC LP along the Tradewinds Blvd corridor south of Thomason Drive for the purpose of accepting a new public water and wastewater easement to construct public utility improvements to serve the region west of Loop 250 West.

RESOLUTION NO. 2014 - 297

RESOLUTION RELEASING A WATER PIPELINE EASEMENT AND RIGHT-OF-WAY GRANTED BY SBC, LP; AUTHORIZING THE EXECUTION OF SAID RELEASE OF WATER PIPELINE EASEMENT AND RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY

Council Member Love moved to adopt Resolution No. 2014 - 297; seconded by Council

Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

36. Discuss a Purchase and Sale Agreement between the City of Midland and Energy Related Properties, LLC, which was executed by the City Manager on March 18, 2013, regarding the possible purchase and sale of Block 55, Original Town Addition, City and County of Midland, Texas (the "Property"). Discuss the First Amendment to the Purchase and Sale Agreement between the City of Midland and Energy Tower, LLC, which was executed by the City Manager on November 6, 2013, regarding the potential purchase and sale of real property described as Block 55, Original Town Addition, City and County of Midland, Texas and a portion of Loraine Street between Block 55 and 54, Original Town Addition, City and County of Midland, Texas. Discuss a potential Development Agreement as outlined in the Purchase and Sale Agreement. An approved Development Agreement is required before the sale of the property may occur. The Council will hear a presentation from the developer and their representatives. (CITY ATTORNEY'S OFFICE)

Mayor Morales noted a letter was received from Energy Related Properties requesting this item be heard at a future meeting.

Council Member Robnett moved to defer discussion of this item to a future meeting and to include the letter from Energy Related Properties in the minutes; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

37. Consider a motion making appointments to Building Codes Review Committee, Midland Football-Soccer and Baseball Complex Development Corporation, Midland-Odessa Urban Transit District Board, Planning and Zoning Commission; and consider motions appointing individuals to all other Boards and Commissions.

Council Member Lacy moved to appoint John Ory to replace Carla Repman on the Zoning Board of Adjustments and Airport Zoning Board of Adjustments; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

EXECUTIVE SESSION

38. Mayor Morales announced that pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

a. Section 551.087 Deliberate Economic Development Negotiations.

- a.1. Discuss business prospects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives. Among the matters to be discussed will be a potential economic development agreement with Energy Related Properties, LLC and/or Energy Tower, LLC.

b. Section 551.072 Deliberation Regarding Real Property.

- b.1. Discuss the sale, exchange, lease or value of real property described as Block 55, Original Town Addition, City and County of Midland, Texas. Block 55 is the site of the former Midland County Courthouse. The Council will discuss the proposed sale of said real property to Energy Related Properties, LLC and/or Energy Tower, LLC.

Mayor Morales recessed the meeting to Executive Session at 11:08 a.m.

All of the business at hand having been completed, the meeting adjourned at 12:02 p.m.

PASSED AND APPROVED the 9th day of September, 2014.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary

ENERGY RELATED PROPERTIES LLC

400 W. Illinois Avenue, Suite 1630

Midland, Texas 79701

Phone: 432-687-4414

Fax: 432-682-4497

August 25, 2014

Via Facsimile 432.686.1600 and

Email: csharp@midlandtexas.gov

CITY OF MIDLAND

300 N. Loraine

Midland, TX 79701

Attn: Courtney Sharp, City Manager

Via Facsimile 432.686.1643 and

Email: kstretcher@midlandtexas.gov

CITY ATTORNEY'S OFFICE

P.O. Box 1152

Midland, TX 79702

Attn: Keith Stretcher

Re: Purchase and Sale Agreement [City Center-Midland, Texas] (as assigned and amended, the "PSA") dated effective March 18, 2013 between the City of Midland ("Seller"), as seller and Energy Tower LLC (as assignee of Energy Related Properties, LLC) ("Purchaser"), as purchaser, as amended by that certain First Amendment to Purchase and Sale Agreement [City Center-Midland, Texas] dated November 17, 2013 concerning the purchase and sale of certain property in Midland, Texas known as "Block 55, Original Town Addition, City and County of Midland, Texas" together with certain adjacent right of way (the "Project")

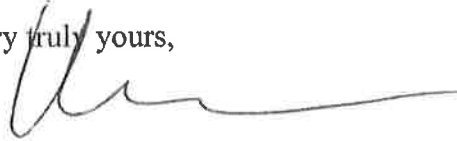
Dear Sirs:

To facilitate our continuing efforts to negotiate the development agreement (the "**Development Agreement**") described in the PSA, Purchaser had requested an opportunity to present our plans in open Council session on August 26, 2014, however, due to a scheduling conflict with our hotel partners we are unable to present at the August 26, 2014 session. Therefore, we request that the presentation be rescheduled for the following September 9, 2014 City Council session.

We look forward to presenting these items to further the Purchaser's continuing efforts to negotiate the Development Agreement as required by Section 5.1(i) of the PSA.

Please confirm that we will be offered an opportunity to present this information at the September 9, 2014 Council meeting.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Wendell L. Brown, Jr.', with a long horizontal flourish extending to the right.

Wendell L. Brown, Jr.
Vice-President

cc: Greg Williams (via email)
William A. Meyer, II (via email)
Scooter Brown (via email)
Thom Cooper (via email)
Jim Cousar (via email)
Andrew A. Ingram (via email)